

THOMAS GERLACH and DIRK DRÖGE
U.S. Patent Application S.N. 10/717,543

IN THE DRAWING:

Please amend FIG. 2 as follows:

1. Please add a reference line and reference number 47 to illustrate the position sensor on drive motor 45 as indicated in red in the attached "ANNOTATED MARKED-UP DRAWINGS" of FIG. 2.

2. Please add a reference line and reference number 47 to illustrate the position sensor on drive motor 46 as indicated in red in the attached "ANNOTATED MARKED-UP DRAWINGS" of FIG. 2.

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R E M A R K S

In two recent telephone interviews claims 26 and 27 were indicated as allowable along with claims 1, 3-16, 18-20 and 22-23. Claims 26 and 27 are to be amended by an Examiner's Amendment in accordance with recent telephone interviews with the Examiner.

After the telephone interviews the undersigned attorney reviewed the Specification and discovered the drawing, namely FIG. 2 did not show a position sensor even though paragraph 25 and claim 10 of the Specification as originally filed claimed and described the position sensor.

Under 37 CFR § 1.83 and MPEP § 608.02(d) the drawing must show every feature specified in the claims. The original drawings, Specification and claims show the features but the claimed position sensor is not referenced in the drawing (FIG. 2). As a result FIG. 2 should be amended as well as Paragraph 0054 of the Specification to incorporate reference lines and reference numbers 47.

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The proposed amendment to Paragraph 0054 and the addition of reference line and reference numeral 47 does not add new matter. New matter under MPEP § 608.04(a) is subject matter that was not in the original claims and Specification as filed.

Original claim 10 claimed the position sensor. The original Specification as filed stated:

"In a further development of the invention, a position sensor is provided for at least one stapling head position and/or at least one clincher position."

The requested amendment of Paragraph 0054 merely repeats a portion of Paragraph 0025 and references position sensor 47 FIG. 2. The Specification and appended "REPLACEMENT SHEET" drawing does not add new matter and should be entered to meet formal requirements. The requested amendment of FIG. 2 and the Specification does not change the scope of claims 26 and 27 which were indicated as allowable.

A formal Notice of Allowance has not been received and therefore the foregoing amendment should be entered under the provisions of MPEP § 714.15. Alternatively, if a Notice of

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Allowance was mailed this Amendment should be considered and
entered under 37 C.F.R. § 1.312 as provided by MPEP § 714.16.

Respectfully submitted,

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"ANNOTATED MARKED-UP DRAWINGS"

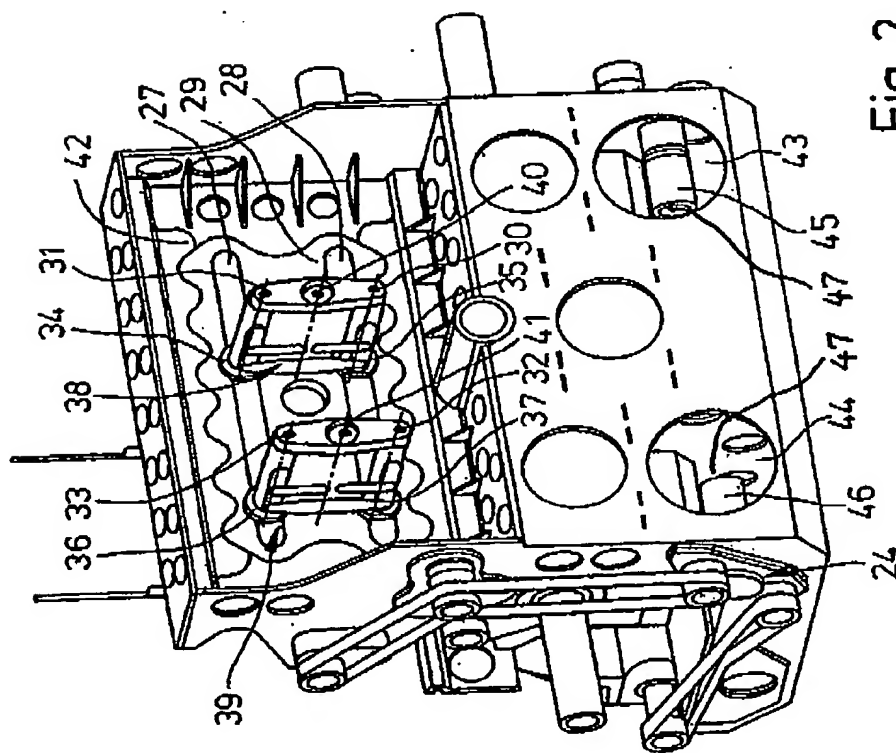


Fig. 2